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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,171	03/27/2001	Hiroshi Kaibara	1232-4692	1895

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NEW YORK, NY 10281-2101

EXAMINER
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NGUYEN, LUONG TRUNG

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/818,171

Applicant(s)

KAIBARA, HIROSHI

Examiner

LUONG T. NGUYEN

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2005 and 17 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,10-12,20-22 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,10-12 and 20-22 is/are rejected.
- 7) ☒ Claim(s) 24-26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/16/2005 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 9/16/2005 and 10/17/2005 have been fully considered but they are not persuasive.

Applicant argues that Takayama does not teach, disclose or suggest a "selection unit" as in pending claim 1, which is "configured to select whether or not to use, when the image sensing apparatus is turned on next time, the image sensing conditions manually set at the time of turning off."

In response, regarding claim 1, the Applicant amended claim 1 with limitation "a selection unit configured to select whether or not to use, when the image sensing apparatus is turned on next time, the image sensing conditions manually set at a time of turning off the image sensing apparatus." The Examiner considers that claim 1 as amended still does not distinguish from Takayama et al. patent. Takayama et al. discloses when the power switch is turned on, the photographer can select between the automatic mode and manual mode, which are

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corresponding to the "image sensing conditions". Note that the camera can select one of either the automatic mode and manual mode as a default mode for photography using a timer (figure 15, column 11, lines 34-43, column 7, lines 22-50).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 10-12, 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Takayama et al. (US 5,640,619).

Regarding claim 1, Takayama et al. discloses an image sensing apparatus comprising:

an operation unit (self-timer reset button 12, command dial 10, mode change button 6, figure 12, column 14, lines 22-35) configured to set image sensing conditions (automatic mode and manual mode) manually in the image sensing apparatus;

a selection unit configured to select whether or not to use, when the image sensing apparatus is turned on next time, the image sensing conditions manually set at a time of turning off the image sensing apparatus (when the power switch is turned on, the photographer can select between the automatic mode and manual mode, which are corresponding to the "image sensing conditions". Note that the camera can select one of either the automatic mode and manual mode as a default mode for photography using a timer, figure 15, column 13, lines 34-43, column 14, lines 22-50);

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a memory device (memory 547 stores default mode, figure 12, column 14, lines 52-67) configured to store the manually set image sensing conditions of the image sensing apparatus when the image sensing apparatus is turn off;

a determination unit (CPU 541, figures 12, 15, when the power switch is turned on, the photographer can select between the automatic mode and manual mode, which are corresponding to the "image sensing conditions". Note that the camera can select one of either the automatic mode and manual mode as a default mode for photography using a timer, column 13, lines 34-43, column 14, lines 22-67) configured to determine, at a time of turning on the image sensing apparatus, whether or not said selection unit selects to use the manually set image sensing conditions at the time of turning off the image sensing apparatus when the image sensing apparatus is turned on;

a control unit (CPU 541, figures 12, 15, when the power switch is turned on, the photographer can select between the automatic mode and manual mode, which are corresponding to the "image sensing conditions". Note that the camera can select one of either the automatic mode and manual mode as a default mode for photography using a timer, column 13, lines 34-43, column 14, lines 22-67) configured to, when a determination result of said determination unit is affirmative, control to automatically read the manually set image sensing conditions stored in said memory device and to automatically set the read manually set image sensing conditions in the image sensing apparatus.

Regarding claims 10, 20, Takayama et al. discloses all of the image sensing conditions are stored in said memory device (column 14, lines 58-63).

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Regarding claims 11, 21, Takayama et al. discloses at least one of the image sensing conditions is stored in said memory (column 14, lines 58-63).

Regarding claims 12 is method claim of apparatus claims 1. Therefore, see Examiner's comments regarding claims 1.

Regarding claims 22, all the limitations are contained in claim 12, except the feature "computer readable program code means," which is disclosed as "program" in Takayama et al., column 14, lines 23-27.

#### ***Allowable Subject Matter***

5. Claims 24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUONG T NGUYEN whose telephone number is (571) 272 - 7315. The examiner can normally be reached on 7:30AM - 5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NGOCYEN VU can be reached on (571) 272 -7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LN  
10/30/05



**LUONG T. NGUYEN**  
**PATENT EXAMINER**